



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-162862

December 19, 1967

Mrs. Mary M. Rydquist
Authorized Certifying Officer
Bureau of Land Management
Denver Service Center, Building 50
Department of the Interior
Denver, Colorado 80225

Dear Mrs. Rydquist:

Your letter of November 1, 1967, reference (733b-2), with enclosures, requests our advice concerning the propriety of a collection bill for \$205.04 issued against an employee of the Bureau of Land Management predicated upon an administrative view that he was allowed excess travel and transportation expenses incident to home leave taken in the continental United States.

The employee involved whose "place of actual residence" appears to have been Washington, D.C., was authorized by travel order dated September 9, 1966, to take home leave in the continental United States under section 4, Bureau of the Budget Circular No. A-56, June 1, 1962, or section 7 of the current circular, after completion of a tour of duty in Anchorage, Alaska.

The employee elected not to travel to his place of actual residence for leave but spent substantially all of his leave at Las Vegas, Nevada. The employee and members of his immediate family departed Anchorage on various dates from September 18 through December 3, 1966. Some members accompanied the employee to Las Vegas and thence traveled to Detroit, Michigan, before returning to Anchorage. Other members traveled directly from Anchorage to Detroit or Dayton, Ohio. Another remained with the employee in Las Vegas and returned with him to Anchorage via Reno, San Francisco, and Seattle.

The travel was performed largely by air and the value of the transportation requests used is understood to have been in the aggregate amount of \$1,942.85.

You express the view that by virtue of the employee having selected Las Vegas as the location other than his place of actual residence at which to spend his home leave his entitlement to transportation at Government expense for members of his immediate family

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Alaska

would be limited to their constructive travel by the direct usually travelled route between Anchorage and Las Vegas. Thus, you propose to allow credit for transportation of the employee and his family between Anchorage and Las Vegas, \$1,739.00. On that basis the overpayment would be \$203.85 (\$1,942.85 - \$1,739), plus transportation tax of \$10.19 on the excess cost, less a credit of \$9 for taxicabs, or a net indebtedness of \$205.04.

We do not appear to have had occasion to decide the precise question raised by your letter. The statutory authority for allowance by the Government of the travel and transportation expenses of an employee in connection with home leave now is found in 5 U.S.C. 5728. So far as here pertinent, the statutory language provides for the payment of the expenses of round-trip travel of the employee and the transportation of his immediate family to the place of his actual residence at the time of appointment after he has completed an agreed period of service outside the continental United States and is returning to his actual place of residence to take leave before serving another tour of duty outside the continental United States.

The statutory regulations currently in section 7 of the Bureau of the Budget Circular No. A-56, Revised October 12, 1966, provide that an employee and his immediate family shall be allowed expenses for travel from his post of duty to the place of his actual residence at the time of his appointment, and return, or, in the alternative, if leave is taken at "another location", the amount allowed for travel and transportation expenses shall not exceed that which would be allowed for travel between the post of duty and the place of actual residence. To the same effect see section 4 of Bureau of the Budget Circular No. A-56, dated April 30, 1962, and section 27(b) of Bureau of the Budget Circular No. A-4, dated May 2, 1955.

In 37 Comp. Gen. 113, 115 (1957) we said:

"* * * The statute authorizes travel for leave purposes to 'places of actual residence.' As recognized in 35 Comp. Gen. 246, that phrase is not viewed as requiring travel to the actual residence before the travel expenses are allowable. By its terms, however, the statutory regulations, above, authorize travel only to 'another location.' The regulations do not provide for travel to various locations for personal convenience. Thus, the

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regulations permit election of an alternate destination, which ordinarily should be specified in advance of the travel. The cost payable by the Government for travel to the alternate location is restricted to cost actually incurred and may not exceed constructive cost to actual place of residence." (Underlining supplied.)

In effect we ruled that under the regulations the employee who elects not to return to the place of actual residence may select another place to spend his leave by which the Government's obligation for payment of travel expenses may be precisely measured, but not a plurality of places.

In connection with the home leave travel of an employee there is no legal privity between the Government and the members of his immediate family and it follows that such members may not either at the direction of the employee or by personal choice obligate the Government to pay for transportation in excess of that allowable to the employee by reason of his choice to use his leave at a point less distant than his place of actual residence. See B-137605, March 17, 1961.

Therefore, any travel or transportation expense allowed the employee for his travel or that of his family in excess of the cost of travel or transportation between Anchorage, Alaska, and Las Vegas, Nevada, would be unauthorized.

The enclosures transmitted with your letter are returned herewith and it is our opinion that the method used in computing the overpayment to the employee is correct.

Sincerely yours,

FRANK H. WEITZEL

Assistant Comptroller General
of the United States